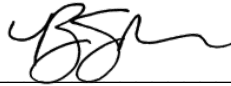


plaintiff's counsel represented that plaintiff would disclose the information to defendant, but was experiencing logistical difficulties in obtaining the information himself.

In light of the fact that the instant motion is filed by plaintiff regarding his own information, and for the reasons discussed above, plaintiff's motion for leave is GRANTED.

It is hereby ORDERED that the Social Security Administration disclose plaintiff's earning and benefits history as requested in plaintiff's subpoena ([DE-35-2] at 1-3), a copy of which is attached hereto.

SO ORDERED, this 11th day of December, 2023.

A handwritten signature in black ink, appearing to read 'BSM', is written above a horizontal line.

Brian S. Meyers
United States Magistrate Judge

Exhibit 2**UNITED STATES DISTRICT COURT**

for the

Eastern District of North Carolina

Larry Christopher

Plaintiff

v.

Trawler Cameron Scott, LLC

Defendant

Civil Action No. 4:23-cv-36-D-BM

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To:

Social Security Administration
Accawmacke Office PK, 22581 Center Pkwy Accomac, VA 23301*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: Any and all records relating to Larry Christopher's earnings history and benefits from date of birth forward.

Place: Flynn Wirkus, P.C.
350 Granite Street, Suite 1204
Braintree, MA 02184

Date and Time:

01/03/2024 12:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*_____
Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Larry Christopher, who issues or requests this subpoena, are:

Kathleen A. Reagan, Esq. Flynn Wirkus, P.C., 350 Granite Street, Suite 1204 Braintree, MA 02184;

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:23-cv-36-D-BM

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

Privacy Program

A Central Source For Information About SSA's Privacy Compliance Program

Court Orders, Subpoenas, Law Enforcement Requests, and Other Legal Processes

Federal and State Court Orders

SSA will provide information in response to a federal court order that meets our regulatory requirements at 20 C.F.R § 401.180. SSA will not honor state court orders, as state courts do not have jurisdiction over a federal agency. SSA cannot comply with a court order for an individual's earnings information unless it meets the requirements of 26 U.S.C. § 6103(i) of the Internal Revenue Code.

Subpoenas

Generally, SSA will not respond to a subpoena for records unless it is signed by a federal district court judge and meets the other requirements listed in our court order regulation at 20 C.F.R § 401.180. In other cases, if you send a subpoena to SSA, we will respond with a letter telling you that the agency cannot comply and that you should obtain the written consent of the individual whose records you are seeking. See instructions on written consent below. Please note that state court orders and subpoenas are not FOIA requests and should not be submitted via the FOIAonline system.

Consent - If you are seeking the records of a living individual, you must have the individual complete Form SSA-3288 available at: <https://www.ssa.gov/forms/ssa-3288.pdf> or complete a consent that complies with our regulations at 20 C.F.R. § 401.100. If you obtain proper authorization, you may request this information from the individual's local Social Security office. Please visit our website at www.ssa.gov to locate the individual's local office.

SSA Employee Records

- If you are seeking the records of a current SSA employee (regarding payroll, performance, leave, etc.), you should have the employee complete Form SSA-3465 and advise the employee to submit the form to his or her supervisor. When an employee resigns, retires, transfers, or otherwise terminates employment with SSA, Form SSA-3465 should be mailed to SSA's Office of the General Counsel, Office of Privacy and Disclosure at 6401 Security Boulevard, West High Rise, Room G-401 Baltimore, Maryland 21235.

Earnings Records

- If you are seeking a living or deceased individual's earnings records, please follow the instructions to complete Form SSA-7050-F4 available at: <https://www.ssa.gov/forms/ssa-7050-f4.pdf>

7050.pdf and mail it to the address on the form along with the applicable fee and other evidentiary documents as required.

Law Enforcement Requests

If you are seeking records from SSA in connection with an ongoing law enforcement investigation, you should submit a request that:

1. is written on the requesting law enforcement agency's letterhead and be signed by a supervisory official;
2. provides enough information to show that the information is needed for a situation that involves either
 - a. a serious, violent crime, or
 - b. criminal activity involving the Social Security program or other health and income maintenance programs;
3. includes sufficient identifying information about the record holder so we can locate the individual in our records (e.g., name, SSN, date of birth);
4. describes the record(s) needed; and
5. describes why each record is necessary.

If the investigation involves the possibility of Social Security Number misuse or fraud, including misuse or fraud in a program administered by SSA (i.e., disability, supplemental security income, etc.), you should specifically explain this in your request.

Requests may be submitted via:

Mail:

Social Security Administration
Office of the General Counsel
Office of Privacy and Disclosure
Attention: Director, Disclosure and Data Support Division 1
Mailstop G-401 West High Rise Building
6401 Security Boulevard
Baltimore, MD 21235

Fax:

Requests may be submitted via fax to (410) 966-0869. Please send the request to the attention of Director, Disclosure and Data Support Division.

Email:

Although we prefer to receive requests via mail or fax, you may email your request if 1) you are a secure email partner with SSA or 2) you encrypt your email. If you meet one of these criteria, you may email your request to OGC.OPD.LE.Requests@ssa.gov.

If SSA's Office of the Inspector General (OIG) is already involved with your investigation (or you plan to contact them to ascertain if they would be interested in a joint investigation), you may work directly with OIG to further discuss your case

Listed below are links to our regulations and policy instructions where the requester can find information regarding disclosures for law enforcement purposes:

- Code of Federal Regulations
- SSA's Policy Information Site - POMS

Exceptional Law Enforcement Requests Received during Non-Traditional Business Hours:

If you have an urgent and time sensitive request involving exceptional law enforcement activities, including: matters of national security, health and safety, or terrorism that is submitted after traditional office hours (weekends, holidays, and M-F after 6p.m. EST), please contact the Office of Security and Emergency Preparedness, Incident Command Center – Watch Office at (410) 966-4522 for additional guidance.

Employee Testimony

If you are seeking the testimony of an SSA employee, you should submit a written application setting out the nature of the testimony sought, explaining why the information is not available by other means, and why it is in SSA's interest to provide the testimony and send your application at least 30 days in advance of the date of testimony. Please note that SSA maintains a strict policy of impartiality with respect to litigants and seeks to minimize the disruption of official duties. SSA's regulations at 20 CFR Part 403 (Touhy regulations) describe the application process, what information you need to provide, and exceptions to the process. The application must be sent to our Office of the General Counsel in Baltimore, Maryland:

Social Security Administration
Office of the General Counsel
Office of General Law
Attention: Touhy Officer
6401 Security Boulevard
West High Rise, Room G-401
Baltimore, Maryland 21235.